

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DONNA KRAFT ,

Plaintiff,

v.

Case No. 17-cv-802-pp

NANCY A. BERRYHILL,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYMENT OF THE FILING FEE (DKT. NO. 3)**

On June 7, 2017, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying her applications for supplemental security income, disability insurance benefits, and disabled widow's insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3. In order to allow a plaintiff to proceed without paying the filing fee, the court must first decide whether the plaintiff has the ability to pay the filing fee; if she does not, the court must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and (e)(2)(B)(i).

Based on the information provided by the plaintiff, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's affidavit states that she has no monthly income other than \$194 in food stamps. Dkt. No. 3 at 2. Her monthly expenses, including rent, total \$350. Id. The plaintiff

does not own a home and has no other property of value. Id. at 4. The court concludes from that information that the plaintiff has demonstrated that she cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

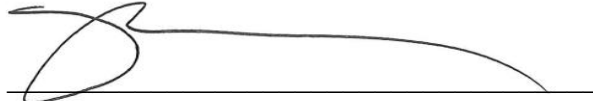
According to the plaintiff, the Appeals Council denied her request for review on April 19, 2017. She argues that the decision is “not in accordance with the purpose and intent of the Social Security Act, nor is it accordance with the evidence, but contrary thereto, in that the ALJ’s decision is not supported by substantial evidence and is contrary to law.” Dkt. No. 1. At this early stage in the case, the court concludes that there may be a basis in law or fact for the

plaintiff's appeal of the Commissioner's decision.

The court **GRANTS** the plaintiff's motion for leave to proceed without prepayment of the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 28th day of August, 2017.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge